

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

JACK MARTELL, LYNN VOGEL, and §
WILLIAM B. VOGEL, §

Plaintiffs, §

v. §

ALZA CORPORATION and, §
SANDOZ, INC. §

Defendants. §

CASE NO. 08-4310-CV-C-SOW

APPLICATION FOR APPROVAL OF WRONGFUL DEATH SETTLEMENT

COME NOW Plaintiffs by and through their attorneys of record, pursuant to R.S.Mo. § 537.080, and for their application for approval of settlement of the claim for the wrongful death of Louise Vogel, deceased, state as follows:

1. Plaintiffs are the surviving spouse and two natural sons of Louise Vogel, deceased.
2. Pursuant to R.S.Mo. § 537.080(1), Jack Martell, Lynn Vogel, and William Vogel are the only persons entitled to share in the apportionment of proceeds regarding the wrongful death of Louise Vogel.
3. This action stems from the wrongful death settlement reached in the following matter: Jack Martell, et al. vs. Alza Corporation and Sandoz Inc., CASE NO. 08-4310-CV-C-SOW in the United States District Court for the Western District of Missouri Central Division. The lawsuit alleges that as a direct and proximate result of decedent's use of the Sandoz patch she died on January 5, 2006.

4. Plaintiffs, individually and by and through their attorneys, have fully investigated the facts and circumstances of the above-described incident and death, and hereby petitions this Court for authority to settle this claim for the wrongful death of Louise Vogel.

5. Pursuant to the provisions of Section 537.095 Mo.Rev.Stat., the following persons, believed to be all parties having any cause of action under 537.080 Mo.Rev.Stat., have been duly notified of this cause of action.

PERSONS NOTIFIED:

- a. Jack Martell
- b. Lynn Vogel
- c. William Vogel

6. Plaintiffs have also entered into an attorney's fee contract with Heygood, Orr & Pearson, whereby Plaintiffs agreed to pay a 40% contingency fee out of any settlement or judgment proceeds. Attorney fees will be presented by way of affidavit. Accordingly, Heygood, Orr & Pearson are entitled to a 40% contingency fee. In addition to attorney's fees, plaintiffs have agreed to reimburse Heygood, Orr & Pearson for their necessary costs and case expenses in the amount of \$131,334.70 plus an additional \$5000 for delayed expenses. Ninety days after the initial disbursement, remains shall be distributed to Jack Martell, Lynn Vogel, and William Vogel on a pro rata basis. The Court is also requested to approve the contracted for attorney's fees and expenses.

7. Following the payment of attorney's fees and expenses, all eligible persons have agreed to the following apportionment of the settlement proceeds:

a. Jack Martell	45%
b. Lynn Vogel	27.5%
c. William Vogel	27.5%

8. The claimants are convinced that the proposed settlement is in the best interest of all persons entitled to make a claim for the alleged wrongful death of Louise Vogel, and now ask this Court to approve the settlement amount, the attorney's fees and expenses, and the proposed distribution.

WHEREFORE, Plaintiff prays the Court to approve, by judgment, the proposed settlement of Plaintiffs claim with distribution as set out in the affidavit that will be provided to the Court during the wrongful death hearing.

Respectfully Submitted,

/s/ Grant L. Davis
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CERTIFICATE OF SERVICE

I hereby certify that on **December 3, 2010**, the foregoing was served via U.S. Mail, postage prepaid, upon:

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